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TESTIMONY ON MICHIGAN H.B. 5905
Presented by Vicki Deisner, State Legislative Director, Midwest Region
Before the Michigan House Agriculture Committee
Tuesday, June 3, 2014

Chairman Daley, Majority Vice-Chair Denby, Minority Vice-Chair Brunner and distinguished members of the House Agriculture Committee, I am Vicki Deisner, State Legislative Director for the Midwest Region of the American Society for the Prevention of Cruelty to Animals (ASPCA). The ASPCA, founded in 1866, is the first humane organization established in the Americas and serves as the nation's leading voice for animal welfare. The ASPCA's mission is to provide effective means for the prevention of cruelty to animals throughout the United States. As part of our national effort to assist local anti-cruelty efforts on the ground the ASPCA provides grants to local communities. In fact, over the last several years we have awarded over \$600,000 to communities throughout Michigan. On behalf of our approximately 2.5 million members and supporters, including over 73,000 Michigan citizens, we **respectfully urge the House Agriculture Committee to vote YES on H.B. 5095 – a bill that would require large-scale dog breeders to register with the Michigan Department of Agriculture and Rural Development and follow guidelines to help ensure the humane treatment of dogs and puppies in these facilities.**

Michigan must move forward to regulate large-scale breeders to improve the quality of life for dogs that are destined to spend their entire live in these facilities – often in substandard conditions. Currently, 36 other states regulate large-scale breeders, including other states in the Midwest such as Ohio, Indiana, Illinois, Wisconsin, Pennsylvania, Iowa, Missouri and jut this year Minnesota (ASPCA national map of large-scale breeding operations). The ASPCA has observed that when neighboring states pass large-scale breeding regulations, some of the breeders that choose not to comply with regulations move to non-regulated states. For example, a number of breeders moved from Pennsylvania to Ohio and upstate New York when Pennsylvania passed their regulations in 2008. Ohio's large-scale breeding regulations just went into effect October 10, 2013. With Michigan now surrounded by states with regulations, you could see an influx of breeders from Ohio and other Midwest states who want to operate without oversight. Unfortunately, breeders looking to avoid oversight are often the worst actors in the industry, making Michigan a very attractive state to puppy mills operators.

Over the years, the ASPCA has devoted significant time and resources to rescuing dogs from puppy mills and assisting shelters and rescues that rehabilitate and rehome animals rescued

from irresponsible breeders. Our Field Investigation and Response team investigates puppy mills across the country, rescuing countless dogs from cruel conditions. Often the facilities are USDA licensed. In 2011 alone, the ASPCA spent more than \$660,000 and nearly 200 days rescuing and rehabilitating dogs from puppy mill raids.

The ASPCA assisted in a puppy mill rescue earlier this year at J.R.R.T. Kennels in Lake City, Missaukee County, Michigan. The ASPCA was asked to assist in this effort by the Missaukee County Sheriff, the Roscommon County Animal Shelter and the Michigan Humane Society. The ASPCA entered J.R.R.T. Kennels on May 23, 2013 to assist in taking possession of the dogs. The facility had 169 Jack Russell terriers, Border Collies, and Shiba Inus in outdoor pens year-round. Except for the whelping area housed under a temporary canvass carport, the dogs, even the tiny Jack Russell terriers, were subjected to extreme weather conditions year-round including the long, cold Northern Michigan winters. In the photos taken by ASPCA included in this testimony, you will see the dogs rescued from J.R.R.T. Kennels living in poor environmental conditions – at the time of rescue the dogs were wallowing in a river of mud.

The rescue dogs were found to have no food and the water available was muddy and contaminated. Many of these dogs were found to have medical complications – including eye and ear infections, overgrown nails that in some cases were growing back into the skin and tissue, and open wounds. Out of the 169 dogs that were rescued, approximately one-third had moderate to severe behavioral problems. In fact, approximately 10 of the animals had such severe behavioral problems they had to be relocated to our behavioral rehabilitation center in New Jersey for extensive therapy so they could have a chance at becoming adoptable. Only 18 animals were socially adapted enough to stay with the Roscommon County Animal Shelter. The remaining animals, approximately 148 dogs, had to be relocated to the Michigan Humane Society and other shelters throughout Michigan and Wisconsin that had the capacity to rehabilitate these dogs with their behavior issues so they could be adoptable. It was and remains the commitment of the ASPCA and our partners in this Michigan rescue to work with each and every dog until they are rehabilitated and adopted.

Behavioral conditions exhibited were anti-social and extreme – an absolute fear of humans. The cause of anti-social behavior exhibited in puppy mill dogs spans the gamut – from simply never having been touched by a human to neglect and cruelty. The ASPCA documented anti-social behavior in the J.R.R.T. Kennel dogs that included fractious behavior – literally trying to climb the fence to escape the rescuers – to self destructive behavior where the dogs would hurt themselves by trying to run through the back of the caged area. These dogs were terrified of humans, kept in extreme weather conditions without proper food, water and veterinary care. Since the charges brought in this case were civil, there is nothing that exists in the law at this time to stop the owner of J.R.R.T Kennels from setting up a puppy mill again – and keeping more dogs in substandard conditions.

One way to prevent this problem is for Michigan to pass H.B. 5095 that will add a registry for large-scale breeders to existing registration and basic veterinary care requirements already in place for the state's animal shelters and pet stores. The answer is not to fall back on the USDA program. The USDA program is not adequate and does not prevent the majority of cruelty and

inhumane treatment of dogs in puppy mills.

The Animal Welfare Act and current APHIS regulations exclude breeders selling pets directly to the public as long as the purchaser meets the breeder and the puppy prior to the sale. Thus a breeder can avoid USDA regulation by simply handing over a dog to a customer in a parking lot, flea market or airport – and the customer would never see the conditions of the breeding facility, the health of breeding animals, or the health of animals not available for sale to the purchaser. The USDA's inability to oversee all retail breeders has created a massive loophole, which has been acknowledged publicly by the agency and further illuminated in USDA's Office of Inspector General's (OIG) audit of APHIS inspections of problematic dealers. The OIG report noted that where customers do not have access to the breeding facilities – such as with sales occurring away from the breeding facility – there is no assurance of humane treatment.

But the real need for H.B. 5905 lies in the fact that given USDA's limited resources and lax enforcement. Substandard conditions exist in many large-scale breeding facilities that are already in the USDA system. These substandard conditions produce dogs with significant health need (e.g. old male breeder rescued by ASPCA). The guidelines incorporated in H.B. 5905 will improve the conditions for dogs in large-scale breeding facilities in Michigan – and improve their quality of life. Many dogs in USDA facilities suffer from dehydration and malnutrition (rescued dogs, condition pre and post rescue); lack of dental care leading to rotting jaws; eye infections, ulcerations and dermatitis and ulcerated skin from urine and feces falling through wire bottoms of stacked cages (e.g. dog with eye and skin injuries); leg injuries from paws falling through wire bottom cages (e.g. dog with rotting back leg); tick infestation (e.g. dogs with excessive, feeding ticks); ingestion of contaminated food (e.g. cockroach-infested food); and diseases borne from unsanitary conditions (e.g. canals of urine and feces). The majority of these photos shared with the Senate Agriculture Committee come from the USDA itself – the USDA Office of Inspector General (OIG) and their May 2010 audit report on inspections of problematic dealers. Since that time, the ASPCA has accumulated over 10,000 photos taken by the USDA during routine inspections of these facilities, which demonstrate cases like these are not the exception, but rather the rule (please visit nopenetstoerpuppies.com/buy-a-puppy to view photographs.) This evidence outlines the many failures of the USDA inspection system in protecting dogs in large-scale breeding facilities:

- 1) In the case of the dog with the rotting leg – the inspector found the dog on the 7th day after the bite. The dog had not received any vet care, which resulted in the flesh around the wound rotting away to the bone. The facility received 11 violations for this incident and others, yet 11 months after the violations were issued the facility was still not fined.
- 2) In the case of the dog with the eye and skin injuries – the inspector cited the breeder for lack of veterinary care and required the breeder to take the dog for treatment – yet no violation was ever issued.

The USDA OIG May 2010 report is testament to the need for the state of Michigan to enact H.B. 5905 which would assure that large-scale breeders are registered with the state of Michigan, and could be inspected upon complaints. H.B. 5905 would provide oversight of some breeders that may

otherwise fall through the cracks of the USDA system.

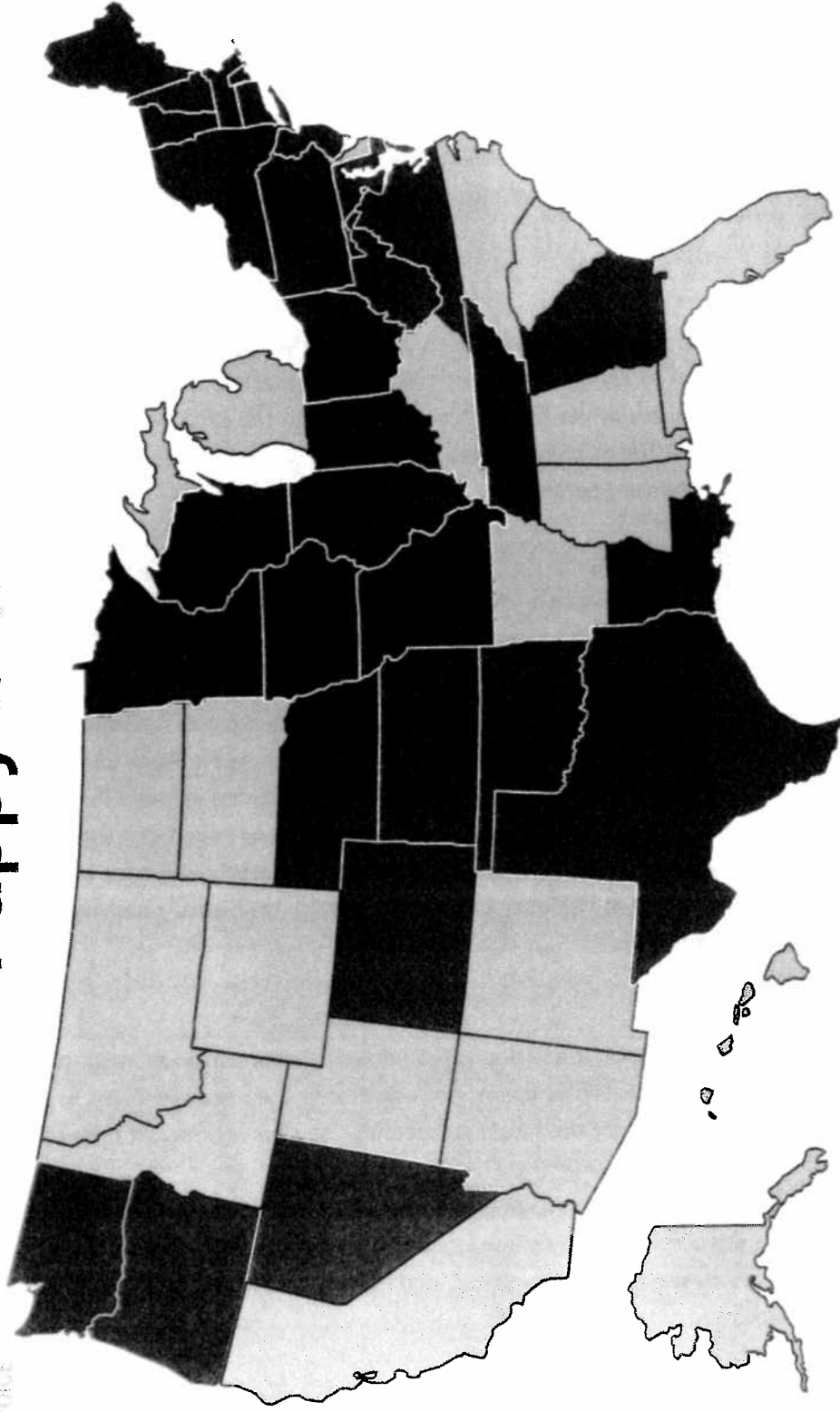
For all of these reasons, **the ASPCA respectfully urges the House Agriculture Committee to support H.B. 5095, a bill that would require large-scale dog breeders to register with the Michigan Department of Agriculture and Rural Development and follow guidelines to help ensure the humane treatment of dogs and puppies in these facilities.**

Thank you for your time and consideration.

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Puppy Mills

May 2014



At Least Some Regulation (30)

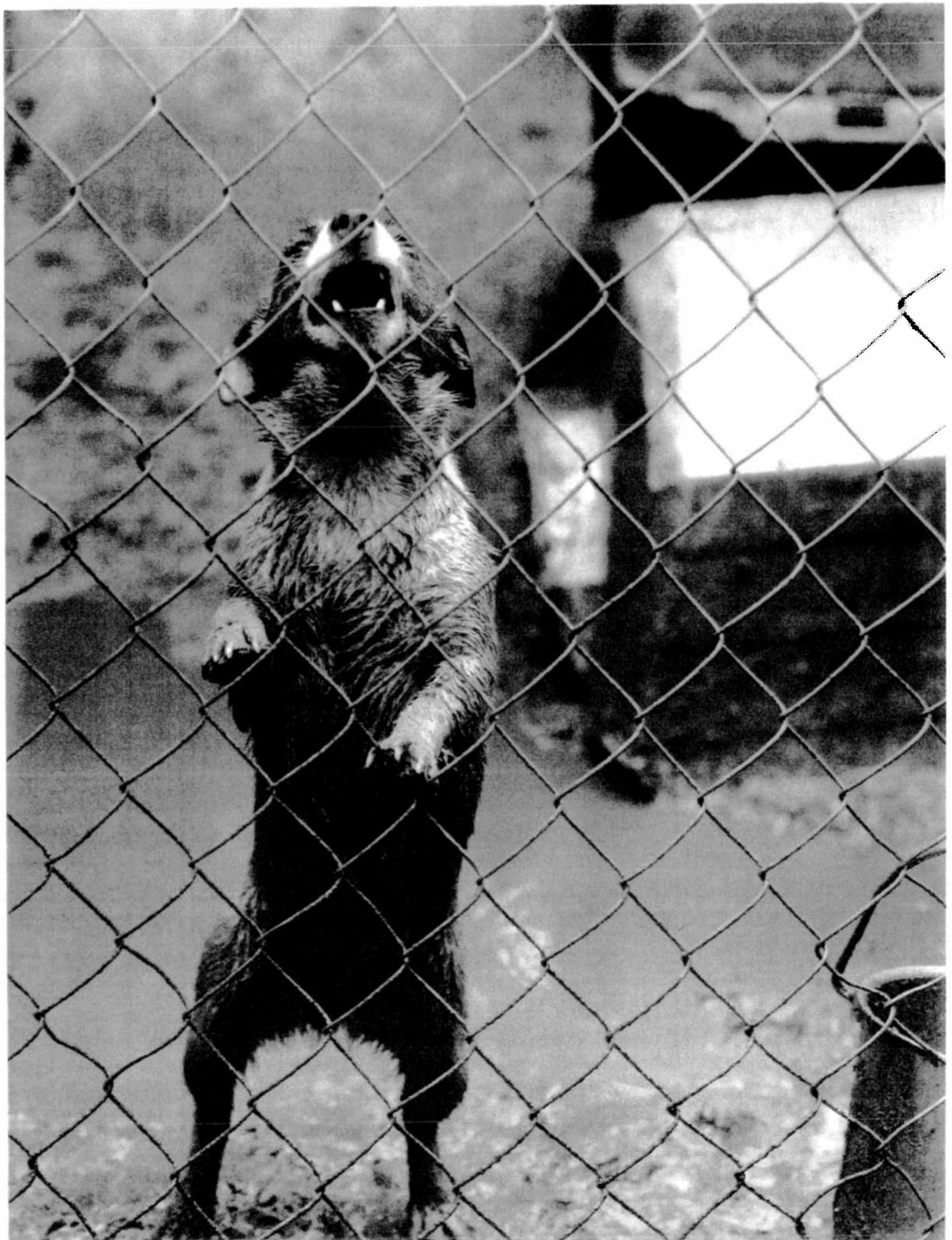
No Regulation (20)

CO KS MO OH TX
CT LA NE OK VT
GA MA NH OR VA
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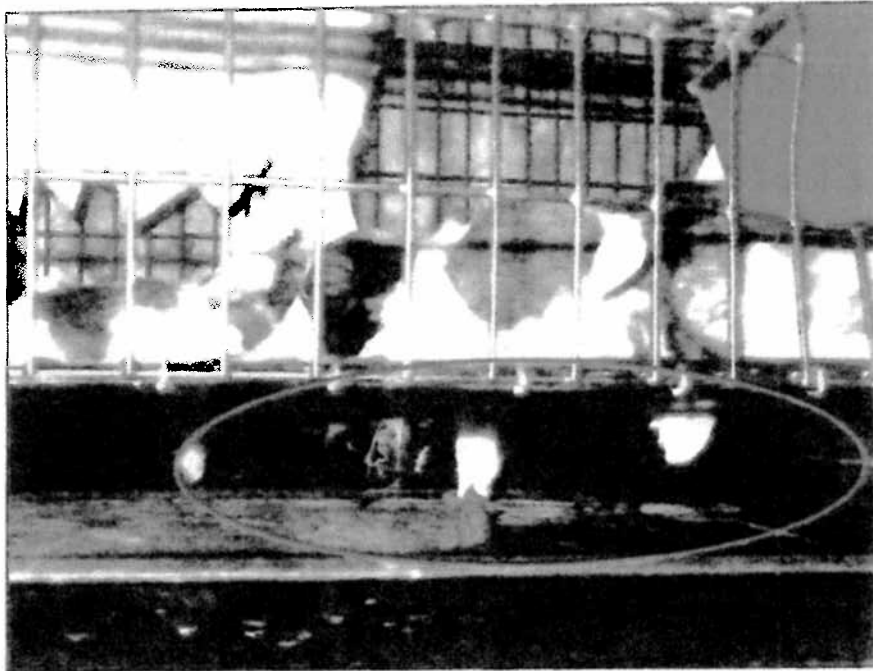












Ohio breeder violated AWA: This was an unsuitable kennel for puppies because their paws slipped through the wires, allowing regular contact with feces. The inspector correctly cited the breeder for failure to protect the dogs' feet from injury (9 CFR §3.6).

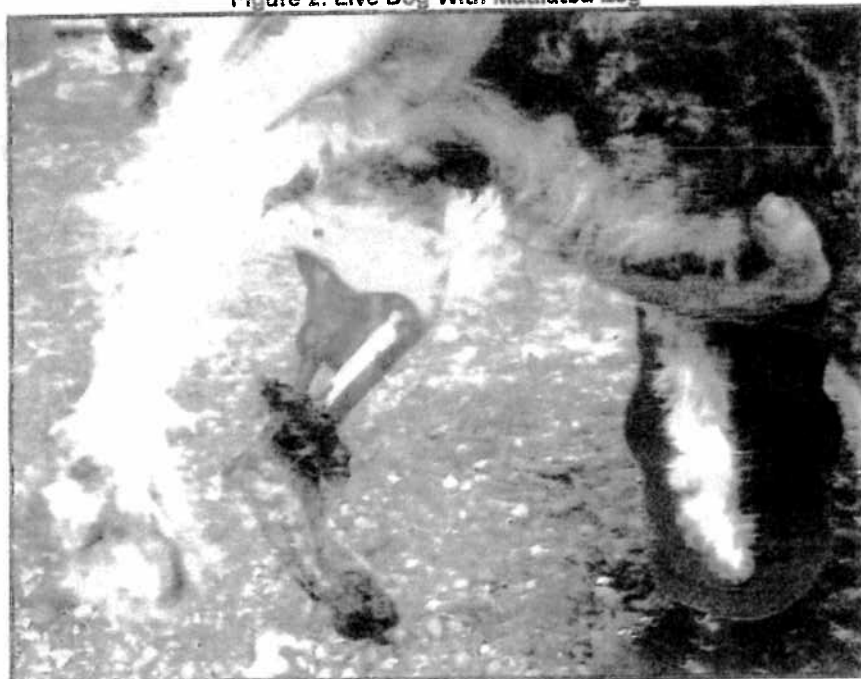


Texas breeder violated AWA: This dog had cloudy eyes covered with a heavy discharge, matted hair, and skin irritations. The inspector cited the breeder for lack of adequate veterinary care (9 CFR §2.40) and required the breeder to take the dog to a veterinarian for treatment. The inspector did not consider this a direct violation.

hair loss over their entire bodies and raw, irritated spots on their skin.²⁷ Despite the continuing violations, AC did not take enforcement actions due to its lenient practices against repeat violators.

During our visit to the facility in July 2008, AC cited the breeder for another 11 violations (including 1 repeat and 3 direct). One of the direct violations involved a dog that had been bitten by another dog. The first dog was left untreated for at least 7 days, which resulted in the flesh around the wound rotting away to the bone (see figure 2).

Figure 2: Live Dog With Mutilated Leg



The breeder admitted the dog had been in this condition for at least 7 days. The inspector correctly required the dog to be taken to a local veterinarian who immediately euthanized it.

AC did refer the case to IES for investigation, but only after another direct violation was documented in a subsequent inspection after our visit. Based on the results of the investigation, AC recommended a stipulation. However, as of early June 2009—11 months after our visit—the violator had not yet been fined.²⁸

Also, although AWA states that “the Secretary is authorized to cooperate with the officials of the various States . . . in carrying out the purpose of [AWA],”²⁹ AC did not establish procedures to forward animal cruelty cases to these officials. In this case, AC did not notify the State of Oklahoma (which has first-offense felony laws for animal cruelty) of the inhumane treatment the dog received.

²⁷ After the direct violation was cited in December 2007, the inspector re-inspected the facility in January 2008 and found that the attending veterinarian prescribed treatment for the dogs.

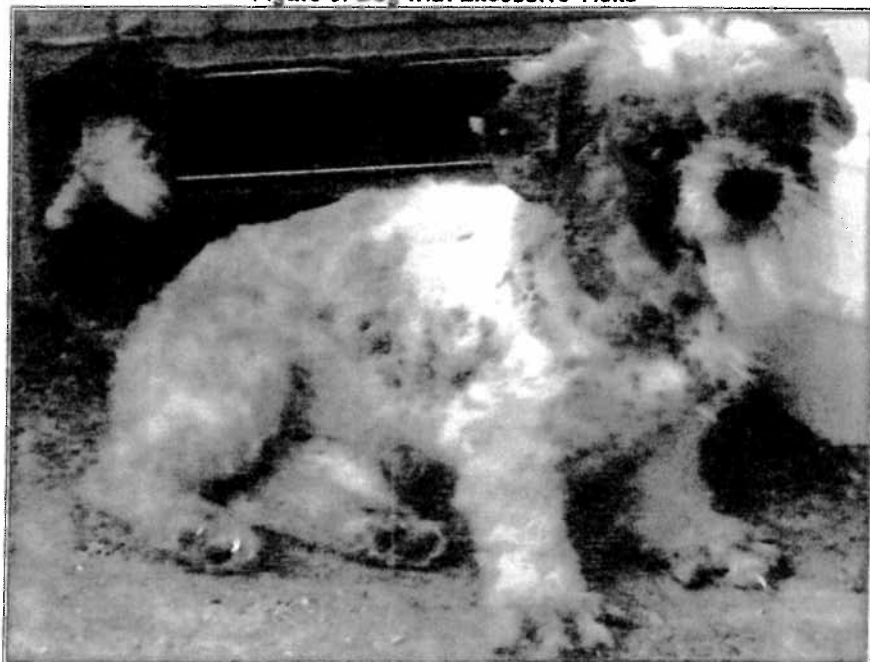
²⁸ For stipulation cases closed between October 2006 and April 2008, it took IES an average of 10 months to issue a stipulation.

²⁹ 7 U.S.C. §2145(b) (January 3, 2007).

Example 2: At another facility in Oklahoma with 96 adult dogs, AC cited the breeder for 23 violations (including 12 repeats) during 4 inspections from August 2005 to September 2007. Although national office instructions state, “if compliance [is] not attained quickly, proceed to other enforcement steps,” AC could not explain why it took no enforcement action.³⁰

During our visit to the facility in July 2008, AC cited the breeder for another 11 violations (including 1 repeat). We found numerous dogs infested with ticks. In one case, the ticks completely covered the dog’s body (see figure 3). The dog appeared extremely tired and stressed and did not move, even when we approached it.

Figure 3: Dog with Excessive Ticks



The inspector required the breeder to take only eight of the numerous infested dogs to a veterinarian.³¹ However, since the inspector did not identify the dogs in the inspection report, it is uncertain if this dog was treated.

Although the inspector was concerned that the dogs might be anemic, she cited the ticks as an indirect violation (i.e., not affecting the animal’s health).³² AC referred the case to IES for investigation. As of early June 2009—11 months after our visit—the case was still under investigation.

Example 3: At a facility in Ohio with 88 adult dogs, AC cited the breeder for 23 violations (including 7 repeats) during 3 inspections from August 2005 to January 2008. In July 2007, AC sent an official warning to correct the identified care and cleanliness violations or face a “more severe penalty.” In January 2008, AC found the same violations but, instead of imposing a more severe penalty, sent another official warning.

³⁰ *Animal Care Enforcement Action Guidance for Inspection Reports* distributed to AC staff in 2007.

³¹ According to APHIS, the inspector documented and photographed the violation for enforcement action. However, we did not observe her taking any photos when we were there, and afterwards she could not produce them.

³² See Finding 2 for additional information about indirect and direct violations.

We found that 4 of the 19 inspectors incorrectly reported at least one direct violation as an indirect. After reviewing some of the examples, AC regional management responded that the inspectors may need additional training in identifying violations. Examples follow:

Example 1: At a breeder facility in Oklahoma with 96 adult dogs, we observed numerous dogs infested with ticks. One dog's face was covered with ticks (see figure 5).⁴²

Figure 5: Dog Covered with Feeding Ticks



The inspector required the breeder to take only eight of the infested dogs to a veterinarian. However, she did not identify the dogs in the inspection report or require documentation of the treatment. Therefore, we were not able to determine what happened to this dog.

The inspector reported the ticks as an indirect violation, even though excessive ticks are classified as a direct violation in AC's Guide.⁴³ The inspector told us that "without doing a physical exam on the dogs, it would be hard to tell exactly how detrimental the ticks were." Even so, she reported that some of the dogs "have enough ticks to be concerned about their hematocrit [a red blood cell ratio indicating anemic conditions]."

When we showed figure 5 to a senior veterinarian at AC's national office and the western regional director, they disagreed with the inspector's judgment of the violation. Both stated that it should have been reported as a direct violation in the inspection report.

Several months later, we asked for the treatment records to determine if the tick-infested dogs had received appropriate care, since AC's policy states that "every facility is expected to have a system of health records sufficiently comprehensive to demonstrate the delivery of adequate

⁴² See figure 3 in finding 1 for another dog in this facility with ticks completely covering the dog's body.

⁴³ *Dealer Inspection Guide*, ch 7 6 1 (April 2000).

health care . . . [including] dates and other details of all treatments.”⁴⁴ The inspector told us she could not require the records because AC “cannot enforce policy” and current regulations do not require breeders to keep them.

We found that although AWA and AC regulations are silent on treatment records, they do require adequate veterinary care;⁴⁵ without these records, the inspector cannot determine if a violator corrected the problem. We also noted that this inspector had required such records at other facilities, as did other inspectors we travelled with.

Last, the inspector did not identify the specific animals in her inspection report. According to APHIS, the inspector documented and photographed the violation for enforcement action. However, we did not observe her taking any photos when we were there and she could not subsequently produce them. Without the documentation, it would be impossible to identify the animals during re-inspection to determine if they were treated or just disposed of.

Example 2: At a broker facility in Oklahoma with 525 adult dogs, we observed and the inspector reported “an excessive number of insects/ cockroaches” crawling on walls, the floor, and the ceiling. Food bowls were also infested with dead and live cockroaches (see figure 6).

Figure 6: Cockroach-Infested Food



The inspector required the broker to correct the contaminated food within 5 days. However, by not designating this as a direct violation, the inspector will not know if the correction occurred since she will not return for a re-inspection for a year.

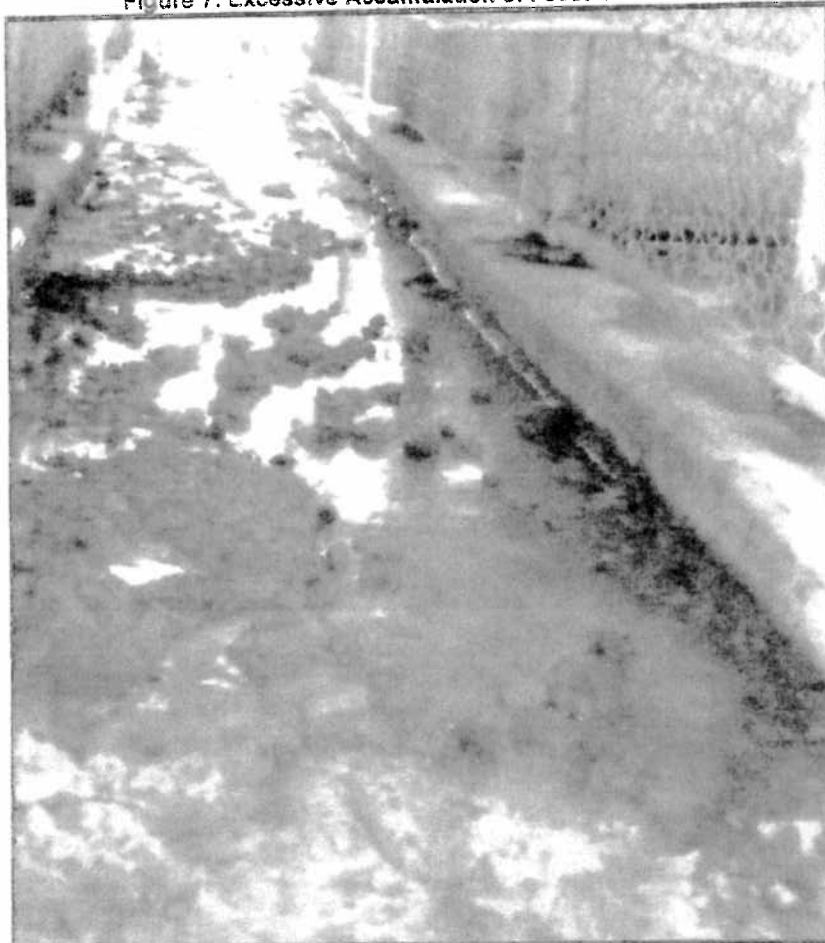
The inspector cited the violation as an indirect, even though contaminated feed and heavy vermin infestation in storage or feeding area are classified as direct violations in the Guide.⁴⁶ She told us that “cockroaches in the feed [do not necessarily pose] immediate health concerns . . . animals

⁴⁴ AC Policy No. 3 (July 17, 2007).

⁴⁵ 7 U.S.C §2143(a) (January 3, 2007) and 9 CFR §2.40 (January 1, 2005).

⁴⁶ *Dealer Inspection Guide*, ch. 7.6.1 (April 2000).

Figure 7: Excessive Accumulation of Feces and Urine



The inspector cited the breeder for failure to clean and sanitize the kennel, although this area was not included in the citation. Because the breeder was not cited for any direct violations, the inspector will not return for a re-inspection for a year.

In conclusion, by incorrectly reporting direct violations as indirects, AC re-inspected the violators less frequently, leaving the animals at a higher risk for neglect, illness, and ill-treatment.

REPEAT VIOLATIONS WERE NOT REPORTED CORRECTLY

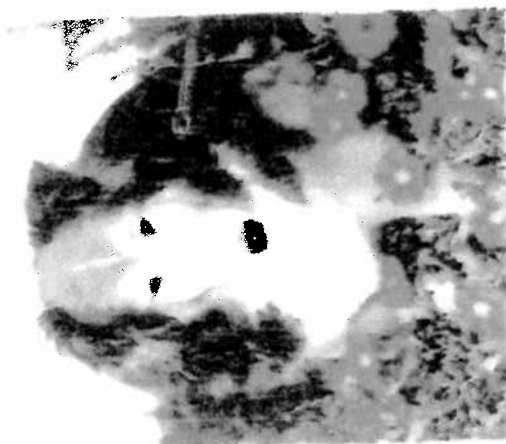
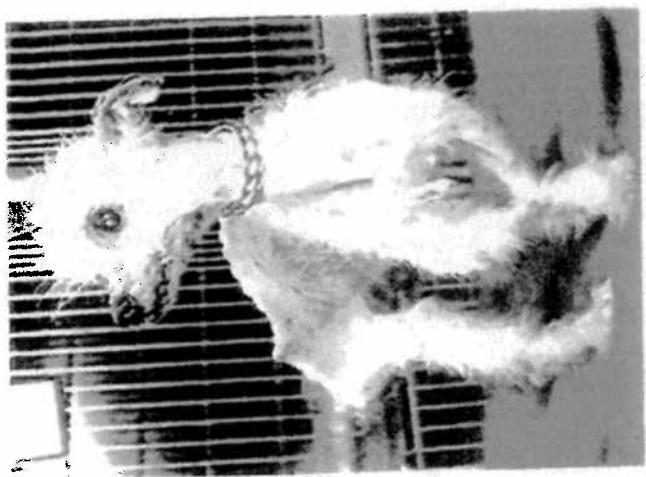
The Guide defines a repeat violation as “a noncompliance cited on the previous inspection or previous consecutive inspections, which has not been corrected, and/or a new noncompliance of the same . . . subsection cited [in] the previous inspection.”⁴⁹ We found that 4 of the 19 inspectors did not follow the Guide in reporting repeat violations.⁵⁰

Example 4: At a facility in Oklahoma with 55 adult dogs, an inspector cited the breeder for 21 violations during 4 inspections from October 2005 to June 2008. One inspection identified a

⁴⁹ *Dealer Inspection Guide*, ch. 7.3 (April 2000).

⁵⁰ Two of the inspectors were among the four that did not correctly cite direct violations.





Case Example: 2013 Commercial USDA Dog Breeder – Calhoun County



(Photo Credit: USDA)

The USDA revoked Allen Mast's commercial kennel license in May of 2013 requiring the disbursement of approximately 20-30 dogs after repeat violations and failed attempts to access the kennel during 2010 -2012. During the inspections, the Animal Care Inspector observed many non-compliances: 1) A responsible adult was not available for inspection 2) No current program of veterinary care 3) Dog had very matted coats, with wound under matting and overgrown nails, 4) Dogs failed to have bedding in temperatures below 35 degrees, 5) Failed to communicate a health issue of a dog to a veterinarian, the dog died 6) Failed to trim over grown tow nails, 7) Failed to maintain rusty surface holding dogs 8) Failed to provide shade structure for three dogs, 9) Failed to maintain structures 10) Failed to clean feces in dog enclosures, sanitized food and water receptacles and remove debris and trash in kennel area 11) Dog with red swelling between toes.

